

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, : Case Nos. 3:06-cr-154
: 3:09-cv-008
Plaintiff, :
: Judge Timothy S. Black
vs. : Magistrate Judge Michael J. Newman
: THOMAS L. McCUALEY, :
: Defendant :

**ORDER AND ENTRY GRANTING DEFENDANT'S MOTION FOR
RECONSIDERATION AND GRANTING DEFENDANT 30 DAYS TO MAKE
OBJECTIONS TO THE REPORT AND RECOMMENDATIONS (DOC. 109)**

This case is before the Court on Defendant's Motion for Reconsideration and Vacation of the Court's Judgment dated September 13, 2011. (Doc. 109). On August 11, 2011, the Magistrate Judge issue a Report and Recommendations recommending that Defendant's Motion to Vacate be denied, that Defendant be denied leave to appeal in forma pauperis and that a certificate of appealability not issue. (Doc. 107). Objections to the Report and Recommendations were due on or before August 29, 2011. On September 13, 2011, upon a *de novo* review and noting that no objections had been filed, the Court adopted the Report and Recommendations of the Magistrate Judge. (Doc. 108).

On September 21, 2011, Defendant filed a Motion for Reconsideration and Vacation of the Court's Decision and Entry. Defendant contends that he was never served with a copy of the Report and Recommendations, had no knowledge of its filing, and therefore, was deprived of an opportunity to submit objections thereto. (*Id.*) Based on the representations set forth by Defendant in his Motion, and absent opposition by Plaintiff, the Court **GRANTS** Defendant's Motion (Doc. 109), directs the Clerk to mail a copy of the Report and Recommendations to Defendant at the address listed on the docket, and

ORDERS that Defendant shall file Objections within 30 days of the entry of this Order.

Plaintiff may respond to any objections within 14 days after being served with a copy by Defendant as required by rule.

IT IS SO ORDERED.

Date: 11/7/11

Timothy S. Black
Timothy S. Black
United States District Judge